



DEPARTMENT OF PLANNING AND BUILDING

Promoting the wise use of land – Helping to build great communities

Date: June 1, 2015

From: James Bergman, Director Department of Planning and Building

To: Lisa Howe, San Luis Obispo County Administrative Office

Subject: Response by the Department of Planning and Building Response to the San Luis Obispo County Grand Jury Report of May 12, 2015 regarding the "Working or Not: Challenges in Enforcing Coastal Vacation Rental Regulations".

The following are the Department of Planning and Building's required responses to the Findings 1-3, 5-6, and 11 and the Recommendations 2 and 4-7:

Findings

Finding - F1. *The county has adopted and subsequently updated a vacation rental ordinance in Avila Beach, Cambria and Cayucos intended to maintain community quality of life and ensure consistency in vacation rental policy.*

Response: The Department agrees with the finding.

Following a number of public hearings, the Coastal Commission certified the adoption of the Residential Vacation Rental Ordinance in 2003. In 2009, planning staff presented the Board of Supervisors with a five year review of the Residential Vacation Rental Ordinance. The objective was to evaluate at the overall situation concerning residential vacation rentals and to check the implementation of the ordinance and it affects. On July 21 2009, based on the discussion from the five year review, staff presented the following issue areas relative to residential vacation rentals: operational standards, notification, expiration of a license, minimum transient occupancy tax to be paid, transfer to new owner, multiple rentals in a 7 day period, location standard, noise, parking, overcrowding, enforcement and inclusion of additional communities. After hearing from many stakeholders, the Board of Supervisors (BOS) directed staff to process the amendment and pursue further discussions with the Advisory Councils and stakeholders involved.

Staff subsequently issued a public review draft of proposed changes to the ordinance based on the discussion at the BOS authorization hearing. This was presented to advisory councils in Cambria, Cayucos and Avila Beach. After extensive discussion with the Councils, and several meetings, staff issued the public hearing draft of the proposed changes incorporating many comments from the advisory councils. The public hearing draft was considered by the Planning Commission on April 14, 2011, July 14, 2011, August 25, 2011 and the final report on September 22, 2011. The BOS

considered the amendments on February 7, 2012; with final adoption on April 17, 2012. The California Coastal Commission ultimately adopted the amendments on November 13, 2013.

Finding - F2. *The number of licensed vacation rentals in these areas of the county is growing.*

Response: The Department agrees with the finding

Finding - F3. *Many residents are unaware of the provisions of the ordinance dealing with the licensing and management of vacation rentals.*

Response: The Department disagrees partially with the finding.

As a general statement, the general public is not fully aware of County-wide land use ordinances. However, significant public outreach was conducted as part of the original adoption of the ordinance in 2003 and then for the amendments between 2009 and 2012. The amendments involved a total of 9 noticed public hearings and numerous community advisory council meetings. Following the adoption of the revisions, staff prepared a "user's guide" which is currently posted on the Department's website.

Finding – F5. *While the county has a process to respond to parking and noise issues connected with vacation rentals when they are brought to the attention of the Sheriff, California Highway Patrol or Planning Department, residents have no effective way to identify the property manager who is supposed to be the first level of contact for such complaints.*

Response: The Department disagrees with the finding.

The Vacation Rental Ordinance has specific requirements to provide 24 hour contact information to all landowners within 200 feet of the proposed vacation rental. Prior to issuance of a Zoning Clearance for any new vacation rental or change in ownership of an existing vacation rental, the applicant must provide proof of the required noticing.

Coastal Zone Land Use Section 23.08.161 includes the following:

k. Local contact person. All residential vacation rentals shall designate a local property manager. The local property manager shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same urban or village area as the residential vacation rental, the property owner may designate themselves as the local contact person. All the requirements enumerated in this section shall continue to apply.

(1) A notice shall be submitted to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office; the local fire agency and supplied to the property owners within a 200 foot radius of the proposed residential vacation rental site. Distances shall be measured as a radius from the exterior property lines of the property containing the residential vacation rental unit. This notice shall state the property owner's intention to establish a residential vacation rental and shall include the name, address and phone number of the local contact person and the standards

for noise, parking and maximum number of occupants. A copy of the notice, a form certifying that the notice has been sent and a list of the property owners notified shall be supplied to the Planning and Building Department at the time of application for the Zoning Clearance, Business License and Transient Occupancy Tax Certificate for the residential vacation rental.

(2) The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this subsection. In addition, the standards for parking, maximum occupancy and noise shall be posted inside the residential vacation rental unit and shall be incorporated as an addendum to the vacation rental contracts.

In addition, the vacation rental ordinance includes provisions for violations and permit revocation. Three verified violations within any consecutive six month period shall be grounds for revocation. Violations pertaining to the vacation rental contact person which will cause the processing of a revocation include: failure to notify County staff when the contact person, or contact information, changes; the inability of County staff or the Sheriff's Dispatch to reach a contact person and the failure of the local contact person, or property owner, to respond the complaint.

Finding - F6. *The county has no proactive programs to identify unlicensed vacation rentals even though officials believe the number may be significant.*

Response: The Department agrees with the finding.

County Code Enforcement responds to violations on a complaints basis. Current staffing resources limit proactive enforcement to life/safety issues. Unlicensed vacation rentals are subject to Section 23.10.020 and Section 23.08.165. These sections allow the County Code Enforcement Officer to pursue violations County ordinances. When evidence is presented that a vacation rental use is occurring without a permit, code enforcement can pursue the violation. This evidence has typically been in the form of complaints by neighbors, complaints by property managers and advertisements on any website.

Finding - F11. *Increased enforcement of vacation rental license compliance and associated tax and fee revenue collection would generate funds to cover the costs of such activity.*

Response: The Department partially agrees with the finding.

Transient Occupancy Tax revenues go to the general revenues and not directly to the department that funds the enforcement effort. The fees associated with the zoning clearance/business license only recover costs associated with the processing of the zoning clearance which is an over the counter permit process and is currently \$73.00. These fees do not cover the cost of the code enforcement staffing.

Recommendations

Recommendation - R2. *To better support the complaint process, the county should implement a way for residents to identify the appropriate property manager for a vacation rental. This could be to require an annual notification to neighbors by the property manager or having the county maintain a public online listing of vacation rental contacts.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable.

The Vacation Rental Ordinance has specific requirements to provide 24 hour contact information for all landowners within 200 feet of the proposed vacation rental. Prior to issuance of a Zoning Clearance for any new vacation rental or change in ownership of an existing vacation rental, the applicant must provide proof of the required noticing. The ordinance also has provisions for complaints due to a lack of contact information and a process for ultimate permit revocation. The requirement for an annual notification will require an amendment to the Coastal Zone Land Use Ordinance which will need to be authorized by the Board of Supervisors. Maintaining a contact database will require significant staff investment.

Recommendation – R4. *The Tax Collector and the Planning Department should develop and implement a process to deal with the issues of unlicensed vacation rentals and unused or minimally used transient occupancy tax certificates.*

Response: The recommendation has been partially implemented.

When the Planning and Building Department receives an inquiry of an unlicensed vacation rental (six in the past 12 months), a code enforcement case is initiated and investigated. Currently, there is no process or requirement to revoke a business license if no TOT has been collected.

Recommendation – R5. *The Planning Department should enforce the requirement to list transient occupancy tax certificate numbers on advertised vacation rental listings.*

Response: The recommendation has been implemented.

County Code Enforcement responds to violations on a complaint basis. When a complaint is filed that a vacation is not meeting one of the required conditions of the ordinance including the lack of transient occupancy tax certificate numbers on advertisements, code enforcement can pursue the violation. County Code Enforcement pursues all cases until they are satisfactorily resolved.

Recommendation – R6. *The Planning Department should create and post on its website a list of licensed vacation rentals by address so concerned individuals can confirm whether a given property is a licensed vacation rental.*

Response: The Department has not yet implemented the recommendation to post a list of licensed vacation rentals on its website.

Planning and Building Department staff has been actively working with the Tax Collector's Office to create a usable database and real time mapping for the Departments' website. Full implementation of this recommendation is estimated to be by July 1, 2017 in conjunction with the proposed permitting system update, which is proposed in the Department's 2015-16 budget.

Recommendation – R7. *The Planning Department should determine and fund a way to monitor whether advertised vacation rentals are properly licensed, thus ensuring collection of related taxes and fees, which can more than cover these costs.*

Response: The recommendation will not be implemented because it is not warranted and is not reasonable.

If the Planning and Building Department receives an inquiry of an unlicensed vacation rental, a code enforcement case is initiated and investigated. Since 2011, there have been a total of 18 complaints filed regarding vacation rentals. A total of 11 violations were due to unpermitted rentals. The 7 other complaints were signage and parking violations. With this relatively low number of complaints, the Department doesn't believe it is reasonable to dedicate and allocate staff resources to monitor the internet for possible violations.